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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,083	02/26/2002	Hyun S. Kim	3672-86512	8063

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EXAMINER

ILAN, RUTH

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/083,083

Applicant(s)

KIM, HYUN S.

Examiner

Ruth Ilan

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on June 9<sup>th</sup> 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-15 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-15 and 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 09 June 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on June 9, 2003 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(f) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the sewn attachment of the shoulder straps to the belt straps. Please note that the other changes proposed will be approved if re-submitted.

### ***Specification***

2. The amendment filed June 9, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: In paragraph 0050, the manner of attachment of the belt by stitching, rivets, etc, is new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3616

4. Claims 8, 10 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 recites "at least one shoulder belt". Since a shoulder belt has already been included in claim 3, it is unclear if this shoulder belt is an additional belt, or intended to be the one previously recited.

Regarding claims 10 and 14, because of the lack of support in the specification and the drawings for the "attachment" of the ends of the shoulder straps to the third belt as indicated in paragraphs sections 5 and 9 above, the metes and bounds of "attached" are difficult to ascertain. For the purposes of examination, it will be assumed that the first and second shoulder straps are associated with the third or belt strap in a generally perpendicular manner.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 3-6, 8, 9, 13, 17, 18, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipper et al. (US 5,429,418) in view of Rupert et al. (US 4,226,474) or Murray (US 5,733,014.) Lipper et al. (Figure 6) teaches a supplemental restraint system for use in a vehicle including a harness (1) having a plurality of belts) and being wearable by the rider (as seen in Figure 1) such that when the rider wears the harness the rider is secured to the seat of the automobile such that the rider remains secured against the seat of the car (as taught in col. 6 lines 48-61.) Regarding

Art Unit: 3616

claim 8, the lap and shoulder belt work in conjunction with the harness and the harness has means (628, 628) to secure the shoulder belt to the harness. Regarding claim 9, the plurality of belts are worn about the upper torso of a user such that a first one of the belts (614) is worn about the waist of the user and others of the belts (602,608) are attached to the first belt and extend over the shoulders of the user. Lipper et al. further teaches that at least one of the straps (see Figure 6) is adjustable (see col. 6, line 50.) While Lipper et al. teaches that the harness works in conjunction with the seat belt and lap belt, and as such forms a 3-point restraint system, Lipper et al. fails to teach that this conjunction is such that when the harness is secured to the lap and shoulder belt of the vehicle the harness forms a five- point restraint system, or uses tethers.<sup>\*</sup> Both Rupert et al. and Murray teach safety harnesses that work in conjunction with existing seat belt systems and include additional tether systems that include tethers that attach to the shoulders of the harness to hold the back of the rider to a seat (see Rupert et al. Figure 6) and to spread out the load or force that the rider feels from an accident so as to lessen the injury from the seat belt (see Murray, col. 6, line 50.) It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the safety harness of Lipper et al. to include an additional two-points of restraint at the shoulders, as taught by both Rupert et al. or Murray, in order to hold the back of the rider to the seat and to spread out the load or force that the rider feels from an accident. Lipper et al. in view of Rupert et al. or Murray meets the limitations of a five-point restraint, which includes the three from the lap/shoulder belt, and the two additional shoulder restraints.

Art Unit: 3616

7. As best understood, claims 10,11 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipper et al. (US 5,429,418) in view of Rupert et al. (US 4,226,474) or Murray (US 5,733,014) as applied to claims 8 and 13 above, and further in view of Olaiz (US 5,927, 235.) Lipper et al. is discussed above and for those elements not previously discussed, Lipper et al. additionally teaches that the shoulder straps are associated with the belt strap in a generally perpendicular manner (based on the 112 2<sup>nd</sup> interpretation indicated above) and additionally that the shoulder straps are arranged in an X-shape. Lipper et al. additionally teaches that the belt (614) is closed around the wearer by hook and loop fasteners, but does not show this connection, and as such fails to teach that the third strap has first and second end attachment points and is of a length such that the first and second ends of the third strap may be attached to the attachment points such that the first and second ends of the third strap overlap one another. Olaiz (Figure 3) teaches a belt for a harness that uses hook and loop fasteners and includes first and second attachment points on the belt (B and D as noted by the Examiner in Figure 3 of Olaiz) such that the first and second ends (A and C) of the belt are attached to the first and second attachment points, and the belt is of a length so as to cause overlap of the first and second ends of the belt. This configuration with hook and loop fasteners is useful because it allows for adjustment of the waistband to allow for a secure connection with wearers of different sizes (see col. 3, lines 32-34.) It would have been obvious to one having ordinary skill at the time of the invention to include with the hook and loop connection of Lipper et al. an arrangement as taught by Olaiz, in

Art Unit: 3616

order to provide an adjustable, and secure connection for the belt that accommodates users of various sizes.

8. Claims 7, 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipper et al. (US 5,429,418) in view of Rupert et al. (US 4,226,474) as applied to claim 5 and 17 above, and further in view of Bowtell (AU 9959355 A). Lipper et al. in view of Rupert et al. is discussed above and teaches all elements of the claimed invention except that the tether straps are not taught as being Y-shaped. Rupert et al. teaches that the tether straps for the shoulder may be attached to suitable eyebolts on the floor of the vehicle (see col. 3, line 68.) Bowtell (Figure 1) teaches a harness restraint system used in conjunction with a seat belt (8) of a vehicle that includes a Y-shaped portion which allows attachment between the shoulder areas of the harness (at around 12) and a single point above the seat. (11.) It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the tether arrangement of Rupert et al. to include a Y-shape as taught by Bowtell, in order to eliminate at least one of the anchors on the floor of the vehicle, or to place a single anchor in a more easily installable location.

### ***Response to Arguments***

9. Applicant's arguments filed June 6, 2003 have been fully considered but they are not persuasive. On page 15 of the response, the Applicant argues that Lipper et al teaches away from forming a five point system, and cites three paragraphs intended to provide support for such a supposition. The Examiner disagrees with this interpretation of Lipper et al. and additionally does not agree that the noted citations teach against a

Art Unit: 3616

five point system, or the relied on combinations. The first italicized section notes that the prior art is a vest described as a life preserver, and is bulky and uncomfortable. Both Murray and Rupert et al. teach similarly comfortable harness vests that have like designs to the Lipper et al. vest. The second italicized comment indicates that the prior art systems are difficult to release. Both Murray and Rupert et al. teach systems similar to the Lipper et al. system that works in conjunction with existing seat belts and have latch mechanisms that are easy to release. The third italicized comment indicates that because the prior art systems are bulky, and difficult to remove, a plurality of restraints would be required. Murray and Rupert et al. and Lipper et al. all teach systems that are worn like vests, and can travel with the child, as opposed to remaining with the vehicle. They are analogous systems, and the addition of two points of restraint are not taught away from by Lipper et al., but rather taught by Murray and Rupert et al. for the reasons indicated above, that is to spread out the force and lessen the injury from the seat belt.

Regarding the combination of Olaiz with Lipper et al. the Applicant appears to be arguing that Olaiz and Lipper et al. are non-analogous art. It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the particular problem is the adjustability and fit of a belt going around someone's waist, which is the problem addressed by Olaiz. Additionally, the Applicant argues that using hook and loop fasteners as taught by Olaiz is not appropriate for a safety harness in an automobile.



Art Unit: 3616

However, Lipper et al. uses hook and loop fasteners for the belt, and simply does not show the details of the fasteners. The Examiner relies on Olaiz to show how someone of ordinary skill in the art would understand that there is overlap for adjustability.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 703-306-5956. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone numbers for

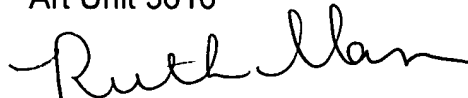
Art Unit: 3616

the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

 7/21/03  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Ruth Ilan  
Examiner  
Art Unit 3616

  
7/17/03

RI  
July 17, 2003